

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

LEVEL 3 COMMUNICATIONS,)	
LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No.: CV-02-VEH-2055-NE
)	
CITY OF HUNTSVILLE,)	
ALABAMA,)	
)	
Defendant.)	

ORDER

This matter is before the court on the parties' cross motions for summary judgment. The plaintiff is Level 3 Communications, L.L.C. ("Level 3"); the defendant is the City of Huntsville, Alabama ("City").

For the reasons stated in the Memorandum Opinion of even date herewith, the court hereby ORDERS as follows:

1) On Count I, the court declares that the compensation at issue is a tax, and enters judgment on behalf of Level 3 and against the City on that claim. As to all other claims in Count I, judgment is entered in favor of the City and against Level 3.

2) On Counts II and III, the court declares that the restrictions on transfer contained in Section 13.A. of Ordinance No. 00-819 violate 47 U.S.C. § 253, and those restrictions are not saved by 47 U.S.C. § 253 (c). The City is permanently


enjoined from enforcement of Section 13.A. of Ordinance No. 00-819. The Ordinance is otherwise valid and judgment on the remaining claims in Counts II and III is entered in favor of the City and against Level 3.

3) On Count IV, judgment is entered in favor of the City and against Level 3.

4) On Count V, judgment is entered in favor of the City and against Level 3.

The Clerk is authorized and directed to draw a check (or checks) on the funds on deposit in the Registry of the Court in the principal amount of Two hundred and seventy-seven thousand six hundred and ninety dollars and 50 cents (\$277,690.50) plus all interest earned for a total amount of (\$284,090.54), less Administrative Assessment Fee of (\$640.00) for a total amount of Two hundred and eighty-three thousand four hundred and fifty dollars and fifty-four cents (\$283,450.54), payable to City of Huntsville, Alabama, and mail or deliver the check (or checks) to Fee & Burgess, P.C., at 213 Green Street, Huntsville, Al 35801.

DONE and ORDERED this 17th day of May, 2005.



VIRGINIA EMERSON HOPKINS
United States District Judge